IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 23946 of 2000

Between:

M/s. Deccan Cements Limited 6-3-666/B, Deccan Chambers, Somajiguda, Hyderabad -500482, represented by its General Manager (Legal) & Company Secretary, Mr. R. Gopalakrishnan.

..... PETITIONER

AND

1 The Union of India, represented by its Secretary, Parliamentary Affairs, New Delhi.
2 The Union of India, Ministry of Finance, represented by under Secretary to Government of India. New Delhi.
3 The Deputy Commissioner (Technical), Office of the Commissioner of Central Excise & Customs, Hyderabad Commissionerate, L.B. Stadium Road, Basheerbagh, Hyderabad - 500004.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pleased to issue a Writ or Order or direction more particularly one in the nature of a Writ of Mandamus declaring- that Chapter - V of the Finance Act, 1994 (Central Act) as amended by Finance Act, 1997 and the retrospective and validation provisions in Section 116 & 117 of the Finance Act, 2000 in so far as they seek to levy service tax on amounts paid to Goods Transport Operations for carriage of goods by road as ultra vires Entry 56 of List-II of the VII Schedule to Constitution of India and hence unconstitutional; and in any event declare that the Sections 116 & 117 of Finance Act, 2000 are contrary to the Judgment of the Supreme Court and this Hon'ble Court and in any event declare the retrospective effect given from 16-7-1997, as invalid

and unreasonable and also declare the levy of tax on entire freight charges as arbitrary; and consequently declare that the petitioner is not liable to pay any service tax as user of Goods Transport Service.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GENERAL)

The Court made the following:

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ORAL ORDER: (per GB. J.)

The learned counsel for the petitioner as well as the learned Standing Counsel for Central Government submits that this matter is covered by a Judgment reported in M/s.NAVA BHARAT FERRO ALLOYS LIMITED vs. UNION OF INDIA AND OTHERS[1].

Recording the above submission and following the ratio in the judgment referred to above, this Writ Petition is dismissed. No costs.

(G.BIKSHAPATHY, J.)

8th April, 2005.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, Parliamentary Affairs, The Union of India,
New Delhi.
2 The under Secretary to Government of India, The Union of India, Ministry of Finance,
New Delhi.
3 The Deputy Commissioner (Technical), Office of the Commissioner of Central Excise & Customs, Hyderabad Commissionerate, L.B. Stadium Road,

Basheerbagh, Hyderabad - 500004.

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(Enclosing copy of the order dated 27.1.2005 made in WP.No.1478 of 2004 and batch)

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